THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 11865 of 2002

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DATED: 03-02-2006

P.Sai Reddy & 13 others.

..... PETITIONERS

AND

The Government of A.P., Rep by its Secretary
Housing ,Mjunicipal Administration & Urban Devlp Dept Secretariat, Hyderabad & 3 others.

.....RESPONDENTS

ORDER:

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This Writ Petition has been filed by the petitioners, who are fourteen in number, assailing the action of the 3rd respondent-Municipal Council, Bodhan, Nizamabad District in putting the plots in their occupation to sale.

2. Petitioners are in possession of small extents of house plots. 3rd respondent prepared a lay out plan being L.P.9 of 1979. Petitioners were found to be in possession of plot Nos.15 to 26, 35 and 36. A representation was made by them in the year, 1975 for regularization of their possession. The District Collector recommended for regularization of their possession on payment of costs of the plots at the rate of Rs.8/- per sq.yard. The Government considered the recommendations of the District Collector and issued G.O.Rt.No.194 dated 06-03-1981. Petitioners paid the costs of the plot as recommended by the Collector. Government issued memo on 12-11-1999 directing the District Collector, Nizamabad, to implement the order issued in G.O.Rt.No.194 dated 06-03-1981. But the 3rd respondent-Municipal

Council by a resolution No.184 dated 26-05-1988 proposed to put the same plots to auction. The action of the Council is questioned in this Writ Petition.

3. 4th respondent filed counter affidavit. The factual aspects are not contradicted by the 4th respondent. It is stated in the counter affidavit that the petitioners have managed to get notices from the then Commissioner without sanction of the District Collector-Government and paid the costs of the land. I deem it appropriate to refer paragraph No.6 of the counter affidavit which reads thus:

> *"During the years 1991-1993 the petitioners have managed to get the notices from the then Commissioner, without sanction of District Collector/Government and paid the cost of land. As matter of fact the alleged notices issued to the Writ Petitioner are not according to law and are not subject to the sanction of either District Collector or from Government as per rule 4 of the A.P. Municipality (Acquisition and Transfer of immovable properties) Rule 1967 and as per G.O.Ms.No.661 M.A., dated 27-10-1967, the said notices alleged to have been issued to the petitioners are untenable and unsustainable in the eye of law. As a matter of fact the cited resolution bearing No.184, dated*
> *26-05-1988 is not pertaining to the regularization of encroachments. As per record the said resolution pertains to "Foundation of water Scheme".*

4. Heard, the learned counsel appearing for the petitioners, learned Government Pleader appearing for the respondents 1 and 2 and learned standing counsel for Municipal Administration appearing for the respondents 3 and 4.

5. The facts are not in controversy. The Government issued the said G.O. for regularization of the possession of occupants of the small extents of municipal site on payment of rate fixed by the District Collector. The District Collector fixed the rate of the plots in occupation of the petitioners at Rs.8/- per sq.yard. Petitioners paid the amount. The only compliance, which is required to be made by the respondents 3 and 4, is to execute transfer deeds. The 3rd respondent appears to have passed a resolution putting the plots in possession of the petitioners to auction. The only ground on which the respondents 3 and 4 justify their action is that the petitioners have managed to get the notices from the then Commissioner without sanction of the

District Collector/Government. The contention of the respondents 3 and 4 is wholly unsustainable in view of the Government issuing G.O.Ms.184 dated 26-05-1988 basing on the recommendation of the District Collector. Therefore, the action of the respondents 3 and 4 in putting the plots, possession of which has been regularized in favour of the petitioners, is wholly unjustified and the same is hereby set aside and accordingly, the resolution No.184 dated 26-05-1988 in respect of the plots in possession of the petitioners is set aside. Respondents 3 and 4 have to execute the conveyance deed in respect of the plots in favour of the petitioners.

6. Accordingly, the Writ Petition is allowed. No order as to costs.

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(B.SESHASAYANA REDDY,J)

3rd February, 2006.

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